

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

ISABELLA BERNAL, Individually and On §
Behalf of All Others Similarly Situated, §
§
Plaintiff, §
§
v. §
§
BACKSLIDERS, LLC D/B/A SOUTH §
AUSTIN BEER GARDEN, DAVID B. §
PEARCE AND RYAN THOMAS, §
§
Defendants §
§

Civil Action No. 1:23-cv-00471-ML

**ORDER OF DISMISSAL WITH PREJUDICE
SUBJECT TO COURT'S RETENTION OF LIMITED JURISDICTION**

On this date came on to be considered the parties' Joint Motion Requesting Dismissal With Prejudice Contingent Upon the Court's Retention of Limited Continuing Jurisdiction. This Motion, which was filed by all of the parties to the above-referenced case, asks the Court to dismiss this cause with prejudice pursuant to the parties' settlement of all claims therein, and makes such request for dismissal contingent upon the Court's retention of ancillary jurisdiction through April 1, 2026 so as to permit the entry of the agreed judgment being held in trust by Plaintiff's counsel, and which is to be entered in the event of Defendants' default under the terms of the parties' settlement agreement.

After considering the motion and the papers on file with the Court, the Court finds that Plaintiff and Defendants have come to an agreement to settle any and all matters and/or disputes in the above-referenced cause, which arises under the Fair Labor Standards Act, and that the

parties' settlement of the Fair Labor Standards Act claims in the above-referenced cause constitutes a fair and reasonable resolution of a bona fide dispute arising under the Fair Labor Standards Act.

The Court further finds that Plaintiff and Defendants' settlement is secured by Defendants' execution of an agreed judgment, which is to be held in trust by Plaintiff's counsel pending and subject to Defendants' completion of all payments required under the parties' settlement agreement, and that Plaintiff and Defendants have agreed to the Court's retention of continuing ancillary jurisdiction through April 1, 2026 in order to permit entry of the agreed judgment if doing so becomes necessary to enforce the Defendants' promises in the parties' settlement agreement.

The parties' Joint Motion is GRANTED.

The above-styled and numbered cause, including all claims therein, is administratively closed and dismissed with prejudice to its refiling. Without affecting the finality of this dismissal, the Court shall retain ancillary jurisdiction over this cause through April 1, 2026 in order to permit its enforcement of the parties' settlement agreement and, specifically, in order to permit the entry of the agreed judgment being held in trust by Plaintiff's counsel if doing so becomes necessary to enforce the Defendants' promises in the parties' settlement agreement. The parties shall each bear their own costs except as may be provided in their settlement agreement.

SIGNED this _____ day of _____ 2024.

The Honorable Mark Lane
United States Magistrate Judge

AGREED AS TO FORM AND SUBSTANCE:

Attorneys for Plaintiffs:

/s/ Aaron Charles de la Garza

Aaron Charles de la Garza
Attorney in Charge
State Bar No. 24028282

AARON C DE LA GARZA, PLLC
509 W. 18th St.
Austin, Texas 78701
Telephone: (512) 474-7054
Fax: (512) 474-5605
aaron@adlglaw.com

/s/ Douglas B. Welmaker

Douglas B. Welmaker
State Bar No. 00788641

WELMAKER LAW, PLLC
409 N. Fredonia, Suite 118
Longview, Texas 75601
Telephone: (512) 799-2048
doug@welmakerlaw.com

Attorneys for Defendants:

/s/ William T. Palmer

Thomas A. Nesbitt
tnesbitt@dnauustin.com
Texas Bar No. 24007738
Laura J. Goodson
lgoodson@dnauustin.com
Texas Bar No. 24045959
William T. Palmer
wpalmer@dnauustin.com
Texas Bar No. 24121765

DESHAZO & NESBITT L.L.P.
809 West Avenue
Austin, Texas 78701
Telephone: 512-617-5560
Fax: 512-617-5563

CERTIFICATE OF SERVICE

I certify that on this the 20th day of August 2024, I electronically submitted this document for filing using the Court's CM/ECF system, which will serve a true and correct copy of this document on counsel of record.

/s/ Aaron Charles de la Garza
Aaron Charles de la Garza